

1 KATHLEEN A. LEAVITT  
 2 CHAPTER 13 BANKRUPTCY TRUSTEE  
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*Electronically Filed on 10/06/09*

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 5 UNITED STATES BANKRUPTCY COURT  
 6 FOR THE DISTRICT OF NEVADA

7 In re: ) BK-S 09-24944 MKN  
 8 DIANA D. GONZALEZ, ) Chapter 13  
 ) Date: N/A  
 Debtor(s). ) Time: N/A  
 9 \_\_\_\_\_)

10 **EX-PARTE MOTION FOR FORMAL DISMISSAL OF  
 11 CHAPTER 13 CASE PURSUANT TO 11 U.S.C. SECTION 521(i)**

12 COMES NOW the Chapter 13 Chapter 13 Bankruptcy Trustee, KATHLEEN A. LEAVITT, and requests the  
 13 Court to formally dismiss the above-captioned bankruptcy case pursuant to 11 U.S.C. §521(i) for the following  
 14 reasons:

15 On August 14, 2009, DIANA D. GONZALEZ ("Debtor") filed a voluntary petition seeking bankruptcy relief  
 16 under Chapter 13 of the Bankruptcy Code. Because Debtor's petition was filed after October 17, 2005, the Bankruptcy  
 17 Code amendments of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA") apply.

18 11 U.S.C. §521(i) provides, in pertinent part, that:

19 (1) Subject to paragraphs (2) and (4) and notwithstanding section 707(a), if an  
 20 individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the  
 21 information required under subsection (a)(1) within 45 days after the date of the  
 22 filing of the petition, the case shall be automatically dismissed effective on the  
 23 46th day after the date of the filing of the petition.

24 (2) Subject to paragraph (4) and with respect to a case described in paragraph (1),  
 25 any party in interest may request the court to enter an order dismissing the case.  
 26 If requested, the court shall enter an order of dismissal not later than 5 days after  
 27 such request.

28 11 U.S.C. §521(i) (in pertinent part).

29 ...

1 Debtor, in the instant case, has failed to file the following:

2 a. Schedules A through J  
3 b. Statement of Financial Affairs

4 The forty-five day (45) period expired on September 28, 2009. A true and correct copy of the Clerk's Docket  
5 Sheet is attached hereto as evidence in support of this request.

6 In addition, the Trustee requests that she be allowed to retain \$150.00 as and for administrative expenses from  
7 the balance on hand in this case, if any.

8 WHEREFORE, the Chapter 13 Trustee requests the Court for an Order dismissing Debtor's case.

9 DATED this 6<sup>th</sup> day of October, 2009.

10 /s/ Kathleen A. Leavitt

11 KATHLEEN A. LEAVITT  
12 CHAPTER 13 BANKRUPTCY TRUSTEE  
13 201 Las Vegas Blvd. South, Suite 200  
14 Las Vegas, Nevada 89101

DebtEd, BAPCPA

**U.S. Bankruptcy Court  
District of Nevada (Las Vegas)  
Bankruptcy Petition #: 09-24944-mkn**

*Date filed: 08/14/2009*

*Assigned to:* MIKE K. NAKAGAWA  
Chapter 13  
Voluntary  
Asset

**Debtor**  
**DIANA D GONZALEZ**  
7330 LINARIA RD  
LAS VEGAS, NV 89113  
SSN / ITIN: xxx-xx-8913

represented by **DIANA D GONZALEZ**  
PRO SE

**Trustee**  
**KATHLEEN A. LEAVITT**  
201 LAS VEGAS BLVD., SO. #200  
LAS VEGAS, NV 89101  
(702) 853-0700

Filing Date	#	Docket Text
08/14/2009	1	Chapter 13 Voluntary Petition. Fee Amount \$274. Filed by DIANA D GONZALEZ (wml) (Entered: 08/14/2009)
08/14/2009	2	Meeting of Creditors and Notice of Appointment of Trustee KATHLEEN A. LEAVITT. 341 meeting to be held on 09/29/2009 at 08:00 AM at 341s - Foley Bldg,Rm 1500. Confirmation hearing to be held on 11/05/2009 at 01:30 PM at Foley Bldg,Third Floor. Objection to Dischargeability of Certain Debts due by 11/30/2009. Chapter 13 Proof of Claims due by 12/28/2009. (Entered: 08/14/2009)
08/14/2009	3	Statement of Social Security Number(s). This document contains sensitive information and cannot be viewed by the public. Filed by DIANA D GONZALEZ (wml) (Entered: 08/14/2009)
		Set Deficient Filing Deadlines. 316 Incomplete Filing (11 USC 521(i)) 9/28/2009 Incomplete Filings due by 8/31/2009. Notice to Individual Consumer Debtor due by 8/31/2009. Summary of schedules due by 8/31/2009. Schedules A-J due by 8/31/2009.

08/14/2009	<u>4</u>	Declaration Re: Schedules due by 8/31/2009. Statement of Financial Affairs due by 8/31/2009. Declaration Re: Statements due by 8/31/2009. Chapter 13 Plan due by 8/31/2009. Chapter 13 Means Test Form 22C Due 8/31/2009 (wml) (Entered: 08/14/2009)
08/14/2009	<u>5</u>	Notice of Requirement to File Certification of Completion of Instructional Course Concerning Financial Management. (wml) (Entered: 08/14/2009)
08/14/2009	<u>6</u>	Notice of Incomplete and/or Deficient Filing. (wml) (Entered: 08/14/2009)
08/14/2009	<u>7</u>	(DUPLICATE ENTRY) Notice of Requirement to File Certification of Completion of Instructional Course Concerning Financial Management. (wml) Modified on 8/14/2009 to Reflect Duplicate Entry (Lakas, WM). (Entered: 08/14/2009)
08/16/2009	<u>8</u>	BNC Certificate of Mailing (Related document(s) <u>2</u> Meeting of Creditors Chapter 13 (BNC)) No. of Notices: 5. Service Date 08/16/2009. (Admin.) (Entered: 08/16/2009)
08/16/2009	<u>9</u>	BNC Certificate of Mailing. (Related document(s) <u>6</u> Incomplete and/or Deficient Filing-Ch 13 (BNC)) No. of Notices: 1. Service Date 08/16/2009. (Admin.) (Entered: 08/16/2009)
08/16/2009	<u>10</u>	BNC Certificate of Mailing. (Related document(s) <u>5</u> Notice of Requirement to File Certification of Completion of Instructional Course Concerning Financial Management (BNC)) No. of Notices: 1. Service Date 08/16/2009. (Admin.) (Entered: 08/16/2009)
08/17/2009	<u>11</u>	Previous Dismissal. Chapter: 13. Case Number: 09-13404. Date Filed: 3/12/2009. District: NV. Date of Previous Dismissal: 5/6/2009. (had) (Entered: 08/17/2009)
08/17/2009	<u>12</u>	Previous Dismissal. Chapter: 13. Case Number: 09-18448. Date Filed: 5/22/2009. District: NV. Date of Previous Dismissal: 7/20/2009. (had) (Entered: 08/17/2009)
08/17/2009	<u>13</u>	Order Reassigning Case to Bankruptcy Judge MIKE K. NAKAGAWA. (jmg) (Entered: 08/17/2009)
08/24/2009	<u>14</u>	Receipt of First Installment Payment. (Receipt Number 192241, Fee Amount \$50.00) (Related document(s) <u>1</u> Voluntary Petition (Chapter 13) filed by Debtor DIANA D GONZALEZ) (kam) (Entered: 08/25/2009)

08/27/2009	<u>15</u>	Notice of Appearance and Request for Notice Filed by AMERICA'S SERVICING COMPANY (MCCALLA, RAYMER, LLC (js)) (Entered: 08/27/2009)
10/01/2009	16	341 Meeting Off Calendar (LEAVITT (jy), KATHLEEN) (Entered: 10/01/2009)

<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
10/01/2009 09:26:51			
<b>PACER Login:</b>	km0269	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	09-24944-mkn Fil or Ent: filed Doc From: 0 Doc To: 99999999 Term: included Format: html
<b>Billable Pages:</b>	1	<b>Cost:</b>	0.08